

## Message Text

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ACTION SCS-03

INFO OCT-01 ARA-06 ISO-00 SCA-01 L-03 H-02 DHA-02 /018 W

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P 261300Z JAN 76

FM AMCONSUL HERMOSILLO

TO SECSTATE WASHDC PRIORITY 926

INFO AMEMBASSY MEXICO PRIORITY

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E.O. 11652: N/A

TAGS: CASC MX (AGUILERA, ROBERTO) (MASSINGILL, ROBERT) (SERRANO,  
STANLEY) (WADE, GEORGE)

SUBJECT: W/W CASE REVIEW OF ROBERTO AGUILERA, ROBERT  
MASSINGILL, STANLEY SERRANO. AND GEORGE WADE

REF: STATE 008363

1. THIS MESSAGE REPORTS A CONFIDENTIAL CONVERSATION WHICH  
RPT WHICH WE HAVE HAD WITH LIC. GABRIEL CARSOLIO ZAYAS,  
ATTORNEY DEFENDING STANLEY SERRANO.  
SERRANO IS ONE OF THE FOUR AMERICANS CAPTIONED ABOVE WHO  
HAS BEEN CHARGED WITH RESPONSIBILITY FOR THE RIOT AND FIRE  
AT THE OLD PENITENTIARY AT HERMOSILLO ON MARCH 4, 1974,  
DURING WHICH SEVEN INMATES DIED OF ASPHYXIATION. ATTORNEY  
CARSOLIO'S COMMENTS PERTAINING TO THE CASE OF STANLEY  
SERRANO ARE CONSIDERED GENERALLY APPLICABLE TO THE OTHER  
THREE AMERICAN DEFENDANTS ROBERTO AGUILERA, ROBERT MAS-  
SINGILL RPT MASSINGILL, AND GEORGE WADE.

2. ATTORNEY CARSOLIO INFORMED US THAT THE JUDGE OF INSTRUC-  
TION IN THIS CASE CONCLUDED THE INVESTIGATION OF THE CASE ON  
JANUARY 7, 1976. THE MAIN REASON FOR THE LENGTH OF THE  
INVESTIGATION HAS BEEN THAT ATTORNEYS FOR THE DEFENSE HAVE  
DELIBERATELY PROTRACTED THE INVESTIGATION, BY ADDUCING  
NEW EVIDENCE FROM TIME TO TIME, IN ORDER TO ALLOW A SUBSTAN-  
TIAL TIME TO PASS SINCE THE FATEFUL EVENTS OF MARCH 1974.  
THEY CONSIDERED EVERY DELAY TO BE WORKING TO THE ADVANT-

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AGE OF THEIR CLIENTS.

3. IN ACCORDANCE WITH ARTICLES 147 AND 278 OF THE CODE OF CRIMINAL PROCEDURE OF THE STATE OF SONORA, PROSECUTION AND DEFENSE WERE GIVEN NOTICE OF RECOMMENDATION TO CLOSE THE CASE, WHICH WAS DONE BY THE JUDGE OF THE CRIMINAL COURT ON JANUARY 19, 1976. ON JANUARY 20, STILL PURSUANT TO ARTICLE 278, THE STATE ATTORNEY, MARIO CARRIZALES DEL CID, TOOK THE CASE UNDER ADVISEMENT, IN ORDER TO REACH HIS CONCLUSIONS RPT CONCLUSIONS. THIS HE IS EXPECTED TO DO BY APPROXIMATELY THE END OF JANUARY.

4. FROM PERSONAL DISCUSSION WITH THE STATE ATTORNEY DEFENSE COUNSEL CARSOLO HAS GAINED AN IMPRESSION THAT THE FORMER MAY REACH CONCLUSIONS OF NON-ACCUSATORY NATURE, IN WHICH CASE PURSUANT TO ARTICLE 281 OF THE CODE, THE JUDGE OF INSTRUCTION MUST SUBMIT THE CASE TO THE STATE ATTORNEY GENERAL FOR REVIEW. IF NON-ACCUSATORY CONCLUSIONS ARE CONFIRMED BY AG, THE JUDGE WOULD THEN NECESSARILY ABSOLVE AND RELEASE THE ACCUSED. OUR SOURCE ESTIMATES THAT THE PROCESS OUTLINED ABOVE COULD REQUIRE BETWEEN 30 AND 60 DAYS, I.E. UNTIL ABOUT EARLY TO MID MARCH.

5. IF THE STATE ATTORNEY REACHES CONCLUSIONS OF AN ACCUSATORY NATURE, THE PROCESS WOULD BE SOMEWHAT MORE DRAWN OUT, INASMUCH AS BOTH ACCUSED AND DEFENSE COUNSEL HAVE AN OPPORTUNITY TO REVIEW THE ACCUSATORY CONCLUSIONS AND TO REACH THEIR OWN CONCLUSIONS. THIS WOULD BE FOLLOWED BY A LEGAL HEARING BEFORE THE JUDGE OF INSTRUCTION, FOLLOWING WHICH THE JUDGE MUST PASS SENTENCE WITHIN 15 WORKING DAYS. IN THIS CASE THE PROCESS COULD REQUIRE FROM TWO TO FOUR MONTHS.

6. ATTORNEY CARSOLO ADVISES THAT HE HAS ALSO DISCUSSED THE CASE WITH THE JUDGE - A NOT UNUSUAL PROCEDURE HERE - AND HAS A STRONG IMPRESSION THAT THE JUDGE FEELS, ON THE BASIS OF HIS OWN STUDY OF THE FILE, THAT THE PROSECUTION HAS FAILED TO MAKE ITS CASE. THE DEFENSE COUNSEL IS ACCORDINGLY VERY OPTIMISTIC CONCERNING THE FINAL OUTCOME.

7. WE CONSIDER, FOR POLITICAL REASONS (WE ARE OBVIOUSLY NOT QUALIFIED TO PASS ON THE LEGAL REASONS OUTLINED BY OUR LIMITED OFFICIAL USE

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SOURCE), THAT THE CHANCES OF ACQUITTAL OF THESE FOUR AMERICANS ARE NOW BETTER THAN THEY WOULD HAVE BEEN SEVERAL MONTHS OR A YEAR AGO. FIRST, THE RIOT AND FIRE AND THEIR TRAGIC CONSEQUENCES HAVE BEEN LARGELY FORGOTTEN NOW. SECOND, DEFENSE ATTORNEYS HAVE BEEN ABLE TO BUILD UP THE CASES OF THEIR CLIENTS WITH CHARACTER WITNESSES. THIRD, THROUGH THE INTERCESSION OF THE CONSULATE GENERAL STRONG EVIDENCE OF PHYSICAL ABUSE OF THE ACCUSED HAS BEEN ESTABLISHED IN THE RECORD.

FOURTH, AND PERHAPS VERY IMPORTANT, A NEW STATE ATTORNEY  
GENERAL WILL REVIEW THE CONCLUSIONS AT THE STATE'S ATTORNEY  
RPT ATTORNEY. THE FORMER AG WAS ON RECORD AS REJECTING CHARGES  
OF ABUSE OF THESE ACCUSED. THE NEW AG IS NOT ONLY NOT  
COMMITTED TO THIS VIEW, BUT HAS PUBLICLY ANNOUNCED THAT  
HE AND THE NEW GOVERNOR ARE ABSOLUTELY OPPOSED TO ABUSE  
OF ACCUSED OR PRISONERS AT ANY STAGE OF A JUDICIAL  
PROCESS.  
SACKSTEDER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 26 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** buchant0  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976HERMOS00042  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760029-0663  
**From:** HERMOSILLO  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760122/aaaaatcq.tel  
**Line Count:** 124  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION SCS  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 76 STATE 8363  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** buchant0  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 20 JUL 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <20 JUL 2004 by BoyleJA>; APPROVED <28 OCT 2004 by buchant0>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** W/W CASE REVIEW OF ROBERTO AGUILERA, ROBERT MASSINGILL, STANLEY SERRANO. AND GEORGE WADE  
**TAGS:** CASC, MX, (AGUILERA, ROBERTO), (MASSINGILL, ROBERT)  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006